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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

19 TYLER HARDY and DANNY
20 ROCHEFORT, Individually and On Behalf
21 of All Others Similarly Situated,
Plaintiff

Case No. 3:22-cv-02090-JSC

**STIPULATION AND [PROPOSED]
ORDER REGARDING MOTION TO
DISMISS BRIEFING SCHEDULE**

23 EMBARK TECHNOLOGY, INC. f/k/a
24 NORTHERN GENESIS ACQUISITION
25 CORP. II, IAN ROBERTSON, KEN
26 MANGET, CHRISTOPHER JARRATT,
PAUL DALGLISH, ROBERT SCHAEFER,
BRAD SPARKES, ALEX RODRIGUES,
and RICHARD HAWWA.

Defendants.

1 Defendants Embark Technology, Inc. f/k/a Northern Genesis Acquisition Corp. II, Ian
2 Robertson, Ken Manget, Alex Rodrigues, and Richard Hawwa (collectively, “Defendants”) and
3 Plaintiffs Tyler Hardy and Danny Rochefort (“Plaintiffs” and, together with Defendants, the
4 “Parties”), by and through their respective counsel, hereby stipulate as follows:

5 WHEREAS, Plaintiffs filed an Amended Class Action Complaint for Violations of the
6 Federal Securities Laws (“Amended Complaint”) on August 25, 2022 [ECF No. 33];

7 WHEREAS, pursuant to stipulation, the Court entered an order providing that Defendants
8 would respond to the Amended Complaint by October 24, 2022, Plaintiffs would file their
9 opposition by December 23, 2022, and Defendants would file their reply by January 26, 2023
10 [ECF No. 31];

11 WHEREAS, Defendants Embark Technology, Inc., Ian Robertson, Ken Manget, Alex
12 Rodrigues, and Richard Hawwa moved to dismiss the Amended Complaint on October 24, 2022
13 [ECF No. 36], with the motion set for hearing on March 2, 2023 at 10:00 a.m.;

14 WHEREAS, at the time the motion to dismiss was filed, service had not been effected on
15 the four other defendants;

16 WHEREAS, Plaintiffs effected service on Defendants Paul Dalglish on December 1, 2022
17 and on Defendant Christopher Jarratt on December 9, 2022, and anticipate effecting service on
18 the two remaining defendants (Robert Schaefer and Brad Sparkes) shortly;

19 WHEREAS, the Defendants anticipate that once all Defendants have been served, Messrs.
20 Dalglish, Jarratt, Schaefer and Sparkes will, in the interests of efficiency and economy, join in the
21 pending motion to dismiss rather than filing separate motions;

22 WHEREAS, the Parties agree that the motion to dismiss briefing deadlines should be
23 modified to facilitate the joinder process and ensure that Plaintiffs need not file opposition papers
24 until after the appropriate joinders have been filed;

25 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED THAT:

26 1. Messrs. Dalglish, Jarratt, Schaefer and Sparks may file joinders in the pending
27 motion to dismiss on or before January 5, 2023, and shall have no obligation to file any other

1 response to the Amended Complaint in the meantime;

2. Plaintiffs' deadline to file their opposition to the motion to dismiss shall be
3 extended from December 23, 2022 to **January 10, 2023**;

4. Defendants' deadline to file a reply in support of their motion to dismiss shall be
5 extended from January 26, 2023 to **February 9, 2023**;

6. Defendants' motion to dismiss shall remain set for hearing on **March 2, 2023** at
7 **10:00 a.m.**, as previously noticed.

8 Dated: December 14, 2022

WILMER CUTLER PICKERING
HALE AND DORR LLP

10 By /s/ Jessica Lewis

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14 *Attorneys for Defendants Embark Technology,
15 Inc., Ian Robertson, Ken Manget, Alex
16 Rodrigues, and Richard Hawwa*

17 POMERANTZ LLP

18 By /s/ Brenda Szydlo

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Attorneys for Plaintiffs and the Proposed Classes

CERTIFICATION

I, Jessica Lewis, am the ECF User whose identification and password are being used to file this STIPULATION AND [PROPOSED] ORDER REGARDING MOTION TO DISMISS BRIEFING SCHEDULE. In compliance with Civil Local Rule 5-1(h)(3), I hereby attest that each other signatory has concurred in this filing.

Dated: December 14, 2022

/s/ Jessica Lewis

Jessica Lewis

[PROPOSED] ORDER

Pursuant to the foregoing stipulation, IT IS SO ORDERED.

Dated: _____

The Honorable Jacqueline Scott Corley
United States District Judge